



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

EUGENE A. CONTI, JR.  
SECRETARY

September 2, 2011

Mayor, Powell Bill Participant

Dear Mayor,

The purpose of this letter is to provide information regarding recent statutory changes that will affect how Powell Bill funds are disbursed to municipalities, including new eligibility requirements as outlined in General Statutes (G.S.) 136-41.1.

Disbursement of Funds

Powell Bill funds (State Street Funds) will be allocated twice a year in equal payments on or before October 1 and January 1, respectively. Please note that any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receiving the required report.

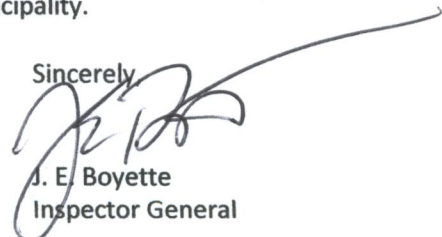
The statute allows small municipalities to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes outlined in section G.S. 136-41.2. To administer this statute, small municipalities will be defined as having a population size of less than 5,000, as outlined in G.S. 136-41.3. Small municipalities, as defined in G.S. 136-41.3, will need to submit in writing a request to extend the allocations as stated in the provision thereby granting an extension from the 10 to the 20 allocations. All written requests for extension of the allocations must be submitted to the Powell Bill Manager prior to August 1.

Eligibility for funds

General Statute 136-41.1 states that "no municipality shall be eligible to receive funds unless the municipality maintains public streets that are within its jurisdiction and do not form a part of the State highway system." This statute renders municipalities with no road miles ineligible for Powell bill funds. Municipalities made ineligible to receive funds shall have until June 30, 2012, to spend previously allocated funds and return unspent funds to the Department, at which point the funds shall be reallocated to eligible municipalities in accordance with current legislation.

We have contacted our legislative staff for further clarification and will keep you informed as new information becomes available. In the meantime, please contact Stephanie Benson, Powell Bill Manager at (919) 715-2549 if you have questions regarding the changes and how they may affect your municipality.

Sincerely,



J. E. Boyette  
Inspector General

Cc: Stephanie Benson, Powell Bill Manager  
Ellis Hankins, Executive Director, NCLM

Attachments: excerpts from HB 200 (Session Law 2011-0145) and HB 22

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## **HB 200 changes to GS 136-41.1 through 136-41.3**

### **STATE STREET-AID TO MUNICIPALITIES (POWELL BILL) ADJUSTMENTS**

**SECTION 28.10.(a)** G.S. 136-41.1(a) reads as rewritten:

"(a) There is annually appropriated out of the State Highway Fund a sum equal to the net amount after refunds that was produced during the fiscal year by a one and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. The One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. In addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.

...."

**SECTION 28.10.(b)** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-41.2B. Eligibility for funds; municipalities with no road miles ineligible.**

No municipality shall be eligible to receive funds under G.S. 136-41.1 unless the municipality maintains public streets that (i) are within its jurisdiction and (ii) do not form a part of the State highway system."

**SECTION 28.10.(c)** Unexpended and unencumbered funds previously allocated to municipalities made ineligible to receive funds by subsection (b) of this section shall be reallocated to eligible municipalities in accordance with G.S. 136-41.1.

**SECTION 28.10.(d)** G.S. 136-41.3 reads as rewritten:

**"§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.**

....  
No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Any Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

...."

SL2011-0145

Session Law 2011-145

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## **HB 22 Budget Corrections**

### **DEPARTMENT OF TRANSPORTATION**

**SECTION 51.** Section 28.10(c) of S.L. 2011-145 reads as rewritten:

**"SECTION 28.10.(c)** ~~Unexpended and unencumbered funds previously allocated to municipalities~~ Municipalities made ineligible to receive funds by subsection (b) of this section

H22 [Ratified]

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shall have until June 30, 2012, to spend previously allocated funds, at which point the funds shall be reallocated to eligible municipalities in accordance with G.S. 136-41.1."

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H22 [Ratified]